

Special Town Meeting Warrant

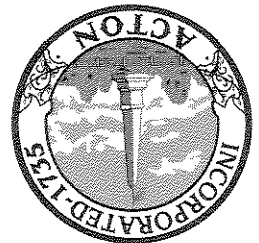
5/10/07
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*The Special Town Meeting will convene Thursday, May 10, 2007
at 7:00 PM in the R. J. Grey Junior High School Auditorium
16 Charter Road*

POSTAL PATRON
ACTON, MA 01720

PRESORT STANDARD
U.S. POSTAGE PAID
PERMIT #67
ACTON, MA 01720



To either of the Constables of the Town of Acton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meeting for the transaction of town affairs, to meet in the R. J. Grey Junior High School Auditorium, 16 Charter Road, Acton, on Thursday, May 10, 2007 at 7:00 PM for a Special Town Meeting, by posting a copy of this Warrant by you attested, at each of the places as directed by vote of the Town, fourteen days at least before the tenth day of May 2007, then and there to act on the following article:

ARTICLE 1 ESTABLISH TEMPORARY MORATORIUM ON THE PERMITTING
(Two-thirds vote) OF WIRELESS COMMUNICATION FACILITIES

WHEREAS, the U. S. Congress enacted the Telecommunications Act of 1996 (the "Telecom Act") to, among other things, remove regulatory barriers and encourage competition among wireless communications companies to promote the development of nationwide wireless communications networks;

WHEREAS, in response to the efforts of the wireless industry to site wireless communications facilities throughout Massachusetts following the enactment of the Telecom Act, the Town added Section 3.10 to the Town's Zoning Bylaw to regulate the siting, construction, size and modification of wireless communications facilities within the geographical boundaries of the Town of Acton ("Acton");

WHEREAS, since the Town first adopted said Section 3.10, the wireless telecommunications industry has experienced rapidly evolving technology, a demand for a substantially expanded range of wireless communications services, and a resulting increase in demand for siting additional wireless facilities;

WHEREAS, many Acton residents and public officials have become concerned that said Section 3.10 and the Town's related land use regulations currently in effect are no longer adequate for the appropriate regulation of such changing wireless communications industry, nor do they provide sufficient definitive criteria with which the Town's Planning Board and Zoning Board of Appeals can properly evaluate and condition the siting and design of these new generations of wireless telecommunications facilities;

WHEREAS, believing it prudent and appropriate for the Town to address the aforesaid concerns, on April 10, 2007, Town Meeting voted to ask the Town's Board of Selectmen to form a committee (the "Wireless Study Committee") to conduct a comprehensive study to review, re-evaluate and consider possible amendments to the current provisions of the Zoning Bylaw governing the permitting and construction of new wireless communications facility towers to adequately and appropriately address the aforesaid concerns;

WHEREAS, the Town believes that a temporary moratorium on the further filing and processing of permit applications for new wireless communications facilities proposed to be sited within Acton that currently require a special permit from the Planning Board under said Section 3.10 is necessary to allow the Wireless Study Committee sufficient time to undertake a comprehensive study and analysis with respect to regulating the siting within Acton of wireless communications facilities and, if appropriate, develop proposed amendments to said Section 3.10 and other applicable provisions of the Zoning Bylaw and/or other applicable laws and regulations governing land use within Acton that will update the regulation of, including but not limited to, the location, height, size, appearance and other aspects of wireless communications facilities;

NOW, THEREFORE, BE IT RESOLVED that the amendment to the Zoning Bylaw set forth below be adopted to establish a temporary moratorium on the issuance of permits for wireless communications facilities proposed to be sited within Acton in order for the Town to update its zoning and land use

policies governing wireless telecommunications facilities to be able to address the demands of the rapidly changing wireless communications industry.

IN FURTHERANCE OF THIS RESOLUTION, the following changes to the Zoning Bylaw of Acton are hereby enacted:

Add the following new Section 3.11 to the Zoning Bylaw:

"Section 3.11 Temporary Moratorium on Wireless Communications Facilities Including Towers, Antennas and Related Equipment used for Transmitting or Receiving Telecommunication Signals Within in the Town.

3.11.1 Purpose

The purpose of the temporary moratorium is to give the Town time to conduct a comprehensive study to review, re-evaluate and consider possible amendments to the current provisions of this Bylaw governing the permitting and construction of new wireless communications facility towers to adequately and appropriately address the concerns of the Town that such current provisions of this Bylaw are no longer adequate for the appropriate regulations of the rapidly changing technologies and service demands of the wireless communications industry in a manner consistent with the Federal Telecommunications Act of 1996 (the "Telecom Act").

3.11.2 Justification

There have been significant changes in the federal law regulating wireless communications facilities since the enactment of the Telecom Act; and

Since the enactment of the Telecom Act and the Town first regulated Wireless Communications Facilities through the adoption of Section 3.10 of this Bylaw, the wireless telecommunications industry has experienced rapidly evolving technology, a demand for a substantially expanded range of wireless communications services, and a resulting increase in demand for siting additional wireless facilities; and

The Town of Acton has a limited number of potential sites which would be suitable for the construction of wireless communications facilities; and

Said Section 3.10 and the Town's related land use regulations currently in effect are no longer adequate for the appropriate regulation of such changing wireless communications industry, nor do they provide sufficient definitive criteria with which the Town's Planning Board and Zoning Board of Appeals can properly evaluate and condition the siting and design of these new generations of wireless telecommunications facilities; and

The Town needs adequate time to conduct a comprehensive study to review, re-evaluate and consider possible amendments to the current provisions of this Bylaw governing the permitting and construction of new Wireless Communications Facilities to adequately and appropriately address the concerns of the Town that such current provisions of this Bylaw are no longer adequate for the appropriate regulations of the rapidly changing technologies and service demands of the wireless communications industry.

Now, therefore, and consistent with the rationale provided above and consistent with the Town's powers and authority under the Massachusetts Zoning Act and the Telecom Act, and the Town's coincident obligations thereunder, the Town adopts the following temporary moratorium with respect to the permitting of Wireless Communications Facilities.

3.11.3 Temporary Moratorium Provisions

For so long as this temporary moratorium remains in effect, no wireless communications facility or structure appurtenant or accessory to a wireless communication facility shall be constructed, nor shall any building permit, special permit, variance or site plan approval decision for any such facility be issued in the Town of Acton.

3.11.4 Temporary Moratorium Expiration

Unless extended, continued or modified by a subsequent action of Town Meeting, the provisions of this temporary moratorium shall expire upon either of the first to occur of: (a) the adoption by Town Meeting of (i) any amendment to Section 3.10 or (ii) any other amendment to this Bylaw's wireless communications provisions that explicitly rescinds or replaces this moratorium, and the approval of any such amendment(s) by the Massachusetts Attorney General, or (b) April 15, 2008.

3.11.5 Exemptions

Wireless Communications Facilities and upgrades thereto, that are currently allowed without a special permit as provided in Section 3.10.5 (Categorical Exemptions) are exempt from the provisions of this temporary moratorium."

, or take any other action relative thereto.

SUMMARY

This Article would establish a temporary moratorium on the permitting of new wireless communications facilities including towers, antennas and related equipment used for transmitting or receiving telecommunications signals within the Town of Acton.

Direct inquiries to: Roland Bartl, AICP, Town Planner
planning@acton-ma.gov / (978) 264-9636

Selectman assigned: Peter J. Berry: bos@acton-ma.gov

Recommendations:	<u>Board of Selectmen</u> Deferred	<u>Finance Committee</u> Deferred	<u>Planning Board</u> Deferred
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And you are directed to serve this Warrant by posting attested copies thereof fourteen days at least before the time of said meeting, in not less than six public places in Town, to be designated by the Board of Selectmen.

Hereof fail not, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at or before the time of said meeting.

Given under our hands at Acton this twenty-seventh day of April, 2007.

F. Doré Hunter, Chair
Lauren S. Rosenzweig, Vice-Chair
Andrew D. Magee, Clerk
Peter J. Berry
Paulina S. Knibbe

Board of Selectmen

A true copy, Attest:

Constable of Acton